

Air Quality Major Open Burning Permit

Issued To:	US Fish & Wildlife Service	Permit #: SM-0008
	5765 West Broadway	Permit Application Received: 11/14/08
	Missoula, MT 59808	Department Decision on Application: 12/17/08
	(406) 329-4749	Permit Final:
		Expiration Date:

An air quality major open burning (MOB) permit is hereby issued to the United States Fish and Wildlife Service (USFWS) pursuant to the Administrative Rules of Montana (ARM) 17.8.601, *et seq.* under the following terms and conditions:

Section I: Permitted Activities

The USFWS is permitted to conduct prescribed wildland open burning activities in Montana that are either deliberately or naturally ignited. Planned, scheduled management-ignited burn (burning) descriptions shall be submitted with the annual air quality permit application and planned, unscheduled naturally-ignited wildland fire use (WFU) event (WFU events) descriptions shall be submitted to the Department of Environmental Quality (Department) and Monitoring Unit of the Montana/Idaho State Airshed Group. All burns and WFU events must be conducted in accordance with this MOB permit.

Section II: Limitations and Conditions

A. Emission Limitations and Control Requirements

1. Anyone conducting burning and WFU events shall comply with Best Available Control Technology (BACT) during ignition and/or throughout the duration of burning/WFU event by employing such techniques and methods that may include:
 - a. Scheduling of burning/WFU events during periods and seasons of good ventilation;
 - b. Applying dispersion forecasts;
 - c. Utilizing predictive modeling results performed by and available from the Department to minimize smoke impacts;
 - d. Limiting the amount of burning/WFU events to be performed during any one time;
 - e. Using ignition and burning techniques which minimize smoke production;
 - f. Selecting fuel preparation methods that will minimize dirt and moisture content;
 - g. Promoting fuel configurations which create an adequate air to fuel ratio;
 - h. Prioritizing burning/WFU events as to air quality impact and assigning control techniques accordingly;

- i. Promoting alternative treatments and uses of materials to be burned; and
 - j. Selecting sites that will minimize smoke impacts.
- 2. The USFWS may not burn prohibited materials as listed in ARM 17.8.604. Prohibited materials include, in part, garbage, building demolition waste, styrofoam and other plastics; rubber materials; treated lumber and timbers; and dead animals or dead animal parts.
- 3. The USFWS shall only conduct burning/WFU events for the purposes of hazard reduction, site preparation for regeneration, range improvement, wildlife habitat improvement, control of forest pests and diseases, and any other accepted silvicultural practice.
- 4. The USFWS shall notify the fire control authority having jurisdiction in the area of burning/events prior to ignition. An additional fire safety permit may be required from the appropriate fire control authority.
- 5. The USFWS shall have appropriate fire control available during the course of burning/WFU event.
- 6. All burning/WFU events conducted under this MOB permit shall be done in a manner that no public nuisance is created. Section 27-30-101, Montana Code Annotated (MCA) defines nuisance as anything which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, square, street, or highway.
- 7. During the period of September 1 through November 30 and prior to conducting burning/WFU events, the USFWS shall call the Department toll free (1-800-225-6779) and access burn coordination information via the Internet at www.smokemu.org.
- 8. During the period of December 1 to February 29, Montana members of the Montana/Idaho State Airshed Group may conduct burning/WFU events if the following conditions are met and approval is granted by the Department:
 - a. All wintertime open burning shall be conducted as specified in the Montana/Idaho State Airshed Group Operating Guide.
 - b. Proposed wintertime open burning requests must be submitted to the Monitoring Unit by November 1st and forwarded to the Department by November 15th. Requests shall be submitted in the Airshed Management System (AMS) database and may be updated as meteorological conditions change.
 - c. The USFWS shall be responsible for scheduling its own burns. The USFWS shall ignite burns only during periods of good or excellent ventilation. Ventilation forecasts may be obtained from the Department, National Weather Service, or Montana/Idaho State Airshed Group. The USFWS shall provide prior-day notification and secure burn-day verification from the Department or its designee.

- d. The Department reviews wintertime open burning requests (December 1 through February 29) on a case-by-case basis. The Department may prohibit wintertime open burning at anytime.
 - e. This permit may be subject to superseding local authority in Flathead, Missoula, Lincoln, Yellowstone, and Cascade County. Local jurisdictions may impose different or more stringent requirements. The USFWS shall confer with county authorities when performing burning/WFU events in their respective jurisdictions.
- 9. Anyone conducting burning/WFU events shall comply with requirements of ARM Title 17, Chapter 8, Subchapter 6. Failure to follow the procedures and requirements of ARM 17.8, Subchapter 6, shall be grounds for revocation of this MOB permit and possible enforcement action under the Clean Air Act of Montana.
 - 10. No one shall conduct burning/WFU events within the city limits of any city in the state of Montana.
 - 11. For each proposed burn, the USFWS shall provide the Department with the proposed burn date, burn identification, location, size in acres, elevation, method of burning, and average fuel loading or total tons of fuel to be disposed.
 - 12. The USFWS shall categorize smoke emissions from each proposed burn and as either natural or anthropogenic and enter the categorization in the AMS database.
 - 13. By February 15th, the USFWS shall submit to the Department an annual report containing completed burning and WFU events information from January 1st to December 31st of the preceding year.
 - 14. The USFWS shall notify the Department and the Monitoring Unit of all WFU events within 72 hours following completion of a WFIP Stage II or III analysis.
 - 15. Upon request from the Department, the USFWS shall provide the Department with maps showing predefined geographic areas eligible for WFU events.
 - 16. Issuance of this permit does not relieve the USFWS of civil or criminal liability for any claims or actions for injury or damage arising as a result of the USFWS performing open burning.

B. County Restrictions

This permit may be subject to superseding local authority in Flathead, Missoula, Lincoln, Yellowstone, and Cascade counties. Local jurisdictions may impose different or more stringent requirements. The USFWS shall confer with county authorities when performing burning/WFU events in their respective jurisdictions.

C. General Conditions

1. Inspection

The USFWS shall provide the Department access to any burning/WFU event site at reasonable times for the purpose of making inspections or surveys, collecting samples, obtaining data, and otherwise conducting all necessary functions related to this MOB permit.

2. Waiver

The MOB permit and all the terms, conditions, and matters stated herein shall be deemed accepted if the recipient fails to appeal as set forth below.

3. Compliance with Statutes and Regulations

The citation of requirements, limitations, and conditions in this MOB permit does not relieve the applicant from the obligation to comply with all applicable statutes and administrative regulations, including amendments thereto, nor waive the right of the Department to require compliance with all applicable statutes and administrative regulations, including amendments thereto.

4. Enforcement

Violations of limitations, conditions, and requirements contained herein or the violation of any applicable statutes and administrative regulations may constitute grounds for permit revocation, penalties or other enforcement as specified in Section 75-2-401 *et seq.*, MCA.

5. Appeals

When the Department approves or denies the application for a MOB permit under this rule, a person who is jointly or severally adversely affected by the Department's decision may request a hearing before the Board of Environmental Review (Board). The request for a hearing must be filed within 15 days after the Department renders its decision. An affidavit setting forth the grounds for the request must be filed within 30 days after the Department renders its decision. The contested case provisions of the Montana Administrative Procedure Act, Title 2, Chapter 4, Part 6, MCA, apply to a hearing before the Board under this rule. The Department's decision on the application is not final unless 15 days have elapsed from the date of the decision. The filing of a request for a hearing does not stay the effective date of the Department's decision. However, the Board may order a stay upon receipt of a petition and a finding, after notice and opportunity for hearing, that: (a) the person requesting the stay is entitled to the relief demanded in the request for a hearing; or (b) continuation of the permit during the appeal would produce great or irreparable injury to the person requesting the stay.

Upon granting a stay, the Board may require a written undertaking to be given by the party requesting the stay for the payment of costs and damages incurred by the permit applicant and its employees if the board determines that the permit was properly issued. When requiring an undertaking, the Board shall use the same procedures and limitations as are provided in 27-19-306(2) through (4) for undertakings on injunctions.

6. Permit Inspection

Pursuant to ARM 17.8.755, Inspection of Permit, a copy of this MOB permit shall be made available for inspection by Department personnel at the permitted source during the burn/event.

7. Permit Fees

Pursuant to Section 75-2-220, MCA, an MOB permit application is deemed incomplete until the USFWS submits the proper MOB permit application fee as required by that section and rules adopted by the Board of Environmental Review.